(1949) Department

SERIES.

G.O. No. 522

Dated 4-3-49

[Despatch Abstract.]

AND ACQUISITION : Delays in Proceedings - Measures to expedite ecommendations of the R.R. Committee - Papers - Recorded.

Back Papers.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
MS	578	KW	22.3.46				
	587 (Cadastral)		23.3.46				
	2453		31.10.46				

Further Papers.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

Revenue Department.

Memorandum No.29803 K/48-1, dated 7-6-1948.

Sub: Land Acquisition - Procedure under the Act - Expedition - Proposals to amend the Act.

In its meeting held on 3-5-1948, the Retrenchment and Re-organisation Committee considered that while it is necessary that a decision should be taken on the point whether the land was required for a public purpose and the details of the property to be acquired should be ascertained, there was no necessity to wait till all the formalities were gone through and an award passed before taking possession of the land. The committee has therefore recommended that in cess other than urgent ones, provision should be made to the effect that, after the enquiry provided for in Section 5-A has been completed and a decision taken under Section 6 to acquire the property, such property may be entered upon and taken possession of, on the expiration of 60 days from the publication of the notice mentioned in Section 9(1) This will enable the purpose for which the property is acquired being carried out without delay and nobody will be affected detrimentally, as all claims in the award to be passed. The Board of Revenue is requested to offer its remarks very urgently on the recommendation.

S.d. x x x
7-6-1948.

The Board of Revenue.

orders in the matter will be decided

REVENUE DEPARTMENT.
Subject

LAND ACQUISITION - Procedure under the Act - Taking possession - Expedition - Proposals to amend the Act - Board's remarks.

Station: Madras. Res.Rt.3942 Dated 17-6-1948.

C.A. Ramakrishnan, Esq., I.C.S., Jt.Secretary, Bd.of Rev.

S. Ranganathan, Esq., O.B.E., I.C.S., Commr. of Land Rev., and Commercial Taxes.

V.N. Kudva, Esq., C.I.E., I.C.S., Commr. of Land Rev. and Excise and Prohibition.

Read: Government Memo No.29803 K/48-1, Revenue, dated 7-6-1948.

RESOLUTION:

The Board submits the following remarks with reference to the Government memo read above:-

The proposal of the Retrenchment and Reorganisation Committee namely, taking possession of lands after the expiry of 60 days from the date of publication of Section 9(1) notice, irrespective of the fact whether the award is passed or not; is beset with difficulties. The Board invites the attention of the Government to the instructions contained in Chapter XXIX, Part III, Land Acquisition Manual, according to which, the Government are at liberty to withdraw from the acquisition proceedings at any time, before the actual possession of the lands has been taken. Withdrawal from the acquisition even at a late stage may be necessary, for reasons such as the unexpected rise in the value of properties to be acquired (vide B.SO.90-16), the irregularities that might occur in the conduct of the land Acquisition Proceedings and the complications arising on account of claims for compensation due to severance etc. Again, the case of lands containing buildings etc., valuation over them, complications are also likely to set in, if their valuation has not been finalised by the Land Acquisition Officer before taking possession. It is therefore very desirable, that the scope for withdrawal from acquisition should be available to the Government in cases of the kind mentioned above. This cannot be had, if the suggestion of the Retrenchment and Reorganisation Committee is accepted, because, when once the possession of the lands has been taken, the Government cannot withdraw from the acquisition proceedings.

The Board also submits that it is very rarely that there will be delay of over 60 days in taking possession of the properties after the publication of notice under Section 9(1). In most cases, the award would be written and pronounced either on the same date, or within a week of the holding of the award enquiry. In urgent cases, of acquisition, there is already a provision in the Land Acquisition Act enabling the Government to take possession of the properties on the expriy of 15 days from the publication of Section 9(1) notice (vide Section 17 of the Land Acquisition Act). In ordinary cases, of acquisition, it will be quite possible to ensure that possession is taken well within 60 days of the publication of the 9(1) notice, by exercising adequate supervision. In very few dases, where a longer period is found necessary for taking possession, the reason for the dealy will mainly be, the complications arising at the

P.T.O....

time of the award enquiry; and in such cases, the scope for withdrawal from the proceedings shhould be available to the Government. In the circumstances, the disadvantages that are likely to follow the proposal of the Retrenchment and the Reorganisation Committee for outweigh the advantages. The Board is therefore of the view, that it is not desirable to accept the proposal of the Committee.

/True Extract/

Sd. x x x x
For JOINT SECRETARY.

To

The Secretary to Government,
Revenue Department.

True Copy/

Office Assistant.
Madras Record Office.

Finance (Reorganisation) Dept.

Sub: Land Acquisition - Procedure - Proposals for Expedition.

The Retrenchment and Reorganisation Committee considered the proposals for expediting Land Acquisition Procedure at its meeting held on 3-5-1948 and minuted as follows:-

'Land Acquisition - Procedure - Proposals for Expedition:

At present, there is very large delay in the acquisition of land required for public purposes, especially when it is needed for purposes under-non-government Management. While it is necessary that a decision should be taken on the point whether the land is required for a public purpose and the details of the property to be acquired should be ascertained, there is no necessity to wait till all the formalities are gone through and an award is passed before taking possession of the land. The delay is mostly caused by administrative provisions and the procedure laid down under the Act and the rules relating to it. The Board of Revenue has issued instructions intended to minimise the delay. The general need for survey, demarcati and for furnishing details of lands, ownership etc., cause a great part of this delay. It will be necessary to arrange for taking possession, leaving the question of claims and the amount of compensation to be paid to be deicded in the Award. So, the Committee would recommend that provision should be made to the effect, that, after the enquiry provided for in Section 5(A) has been completed and a decision taken under Sec. 6 to acquire the property, such property may be entered upon and taken possession of, on the expiration of 60 days from the publication of the notice mentioned in Sec. 9(1). This will enable the purpose for which the property is acquired being carried out without delay and nobody will be affected detrimentally, as all claims arising in the matter will be decided in the Award to be passed. In making this proposal, the Committee is thinking of cases other than emergency ones, for which provision is made in Section 17. The Committee fmx agrees that the amendments proposed by the Government to Sec.17 are necessar and may be passed without delay. It will be necessary, in cases where large acquisitions have to be made that there should be a Special Officer to deal with them and in other cases, the Collectors concerned should keep a watch over the proceedings, as recommended by the Board

2. The above recommendation may be sent to the Revenue Department for further action. They may be requested to communicate to this section a copy of the orders issued for information.

Sd. x x x x
18-5-1948.

/true copy/

TO U.S.

The file deals with the proposals of the Retrenchment and Reorganization Committee for expediting land acquisition procedure. Please see the proposals of the Committee extracted on p.16 ante, the notes from p.17 ante; the memo on pp.21-22 c.f. and the Board's resolution on pp.23-25 c.f.

2. In [illegible]803 K/48-1, Revenue dated 7-6-1948, the Board of Revenue was asked to offer its remarks on the proposal of the Committee, namely, that in cases other than urgent ones provisions should be made to the effect that, after the enquiry provided for in Sec.5 (A) has been completed and a decision taken under Section 6 to acquire the property, such property may be entered upon and taken possession of, on the expiration of 60 days from the publication of the notice mentioned in Section 9(1). The Board states that this proposal is beset with difficulties. For the reasons stated in para 2 of its resolution on pp.23-24 c.f., the Board considers that it is very desirable that the scope for withdrawal from acquisition should be available to the Government in certain cases and that it cannot be had if the proposal of the Committee is accepted, because when once the possession of the land has been taken, the Government cannot withdraw from the acquisition proceedings.

The Board further states that it is very rarely that there will be delay of over 60 days in taking possession of the properties after the publication of the notice under Sec. 9(1). The Board is of the opinion that it will be quite possible to ensure that possession is taken well within 60 days of the publication of the notice under Section 9(1) by exercising adequate supervision. The Board considers that the disadvantages that are likely to follow the proposal of the Committee for outweigh the advantages. The Board is of the view that it is not desirable to accept the proposal.

3. The circumstances stated by the Board, this Department may agree with its view. P.W.D., Local Administration and Finance (Reorganisation) may see for remarks

The proposal now before the Government is with regard to acquisitions other than emergent ones for which proposals to amend section 17 of the Land Acquisition Act are separately under consideration. Here we are concerned with the question of taking possession of land after a issue of a notification under section 9(1) of the Act. The proposal before the Government is for the introduction of a provision so as to take possession of the land after the expiry of 60 days from such a notification.

The Board has opposed the proposal on two grounds. Firstly that the proposal would result in the denial to Government of the right to withdraw from expensive acquisitions, once possession has been taken. This is true, for Section 48(1) of the Act, as it stands at present, denies the liberty to Government of withdrawing from the acquisition of any land of which possession is once taken. It would therefore be necessary, in case Government deisres to reserve the right of withdrawal at any stage, to introduce necessary provision for amending this section of the Act also. The objection of the Board could be ignored if the provision for taking possession, proposed to be introduced, is made use of, with caution and discretion. I feel that within a period of 60 days after the publication of the notice under section 9(1), it would be really an easy matter for the Collector to find out whether the acquisition would really not cost the

Secondly, the Board seems to feel, that with the exercise of adequate supervision, it would be quite possible to ensure that possession could be taken well within 60 days of the publication of the notice under section 9(1). In this connection, it has been my experience, when I worked as Land Acquisition Officer for nearly 6 months in connection with important projects of the Government of India, that the award enquiry generaly prolongs for nearly 3 or 4 months at least, for complicated cases, especially with the rapid changes in the market values of land and buildings. Even with the greatest expedition, it is often not possible to complete the award within a period of 60 days.

In conclusion, therefore, I feel that the necessary provision may be made and that the provision should be resorted to only in real cases of necessity.

Sd. x x x
6-7-1948

Let Deputy Secretary also see.

Sd. x x x
6-7-48.

I am inclined to agree with the Board that no amendment of the Act is necessary on the lines suggested by the Reorganisation Committee. When special provision already exists (and it is proposed to widen its scope) for taking possession of land in emergent cases, as soon as the notice under Section 9(1) is issued, there seems to be no harm in letting other cases where no urgency is involved take their own course, even if that may mean more than 2 month's delay from the date of publication of the Section 9(1) notice.

Sd. x x x
7-7-1948.

I agree with D.S.

Sd. x x x
8-7-48.

PUBLIC WORKS DEPARTMENT (S.I.)

A.S.4

This Department last saw the file at pp.11-13 ante.

Rev. Department notes from the middle of p.20 ante may be perused. The proposal at 'X' above may be agreed to and the file passed on to L.A.

Previous notes on pp.9-13 ante may be perused. The notes on pp.22-23ante indicates that this file relates only to non-emergent cases. The C.E.(W)'s proposal regarding acquisition for post-war road schemes, and the proposal of the Cabinet Sub-committee to appoint an expert Committee to amend the Land Acquisition Act have been remitted to Revenue separately. May be passed on to L.A.

I am rather inclined to think that even in non-emergent cases, it is definitely desirable to speed up the existing procedure. After all, Land acquisition is for a public purpose and the sooner the possession is obtained the better. As pointed out by the U.S., Revenue, the Collector should be in a position to know within 60 days after the publication of notice under 9(1) whether circumstances would require withdrawal from the acquisition

If there is any doubt, he will not take possession. As a matter of caution, Section 48(1) could be amended enabling the Government to withdraw even after taking possession through such cases would be very rare if the proposals have been scrutinised with even a modicum of care earlier.

If the ordinary land acquisition procedure is reasonably speedy, it may not be necessary to resort to the special provisions of emergency acquisition in many cases. 60 days may not be too long to wait but 6 months is quite another story.

Sd. x x x
21-7-48.

Local Administration Department.

Previous note of this Department on p.13 ante may be read.

The note of Revenue Department from pp.17-20 ante and that of Public Works Department on pp.23-24 may be perused. The views of the D.S., P.W.D., on p.24 ante may be agreed to in this Department and the file passed on to Finance Department.

Sd. x x x
28-7-48.

Finance (Accts.A) Department

The file deals with the proposals of the Retrenchment and Reorganisation Committee for expediting land acquisition procedure. The proposals of the Committee extracted at p.16 and the notes from 'X' on page 20 above may be perused.

Proposals for expediting the process of land acquisition in urgent cases by amending Section 17 of the Land Acquisition Act are separately under consideration in Revenue. The proposal for consideration now in this file is in regard to acquisition of land in other than emergent cases. The Retrenchment and Reorganisation Committee has recommended that in effee cases other than urgent ones, provision should be made to the effect that after the enquiry provided for in Section 5A of the Act has been completed and a decision taken to acquire the property, such property may be entered upon and taken possession of an the expiration of 60 days from the publication of the notice mentioned in Section 9(1). For the reasons stated in its references at pages 23-25 c.f., the Board of Revenue is opposed to the proposal of the Committee. For the reasons stated at 'X' on page 23 above, Revenue agree with the Board that no amendment of the Act is necessary on the lines suggested by the Retrenchment and Reorganisation Committee. P.W. However, considers that even in non-emergent cases, it is definitely desirable to speed up the existing procedure and that as a matter of caution, Section 48(1) could be amended enabling the Government to withdraw even after taking possession of the land.

It may be mentioned that, in connection with the scrutiny of the Appropriation Accounts for 1944-45, the tion Public Accounts Committee suggested on examination of the ques-/ whether anything could be done to reduce delays in land acquisiton and the consequent lapsing of funds provided for land acquisition charges. The question was examined by P.W.D. in consultation with the Chief Engineer for Irrigation and the Board of Revenue. It was considered that the instructions issued by the Board of Revenue in B.P.19, Press, dated 30-6-1947 were sufficient to reduce delays

in land acquisition proceedings, and that personal contact between the local officers of the Public Works Department and the Revenue Divisional Officers could ensure that no avoidable delays occurred. This was agreed to by the Revenue and Finance.

5. In view of the above, and in view of the circumstances stated by the Board of Revenue, Finance may agree with Revenue that when special provision already eixists (and it is proposed to widen its scope) for taking possession of land in emergent cases as soon as the notice under Section 9(1) is issued, there seems to be no harm in letting other cases, where no urgency is involved, take their own course. This would avoid any possible risks that may be involved in taking possession of the land before an award is passed.

This Department agrees with the Board and the Revenue Department.

REVENUE DEPARTMENT

TO U.S.

Please see the notes from p.20 ante

2. For the reasons stated by it at pp.23-25 c.f the Board does not consider it necessary to accept the proposals of the Retrenchment and Reorganisation Committee to amend the Act on the lines suggested by it. This Department agree with the Board's views. But P.W.D. and L.A. consider that legislation should be undertaken for speeding up of the L.A. Proceedings. Finance however agree with this Department. In the circumstances, it is for orders.

(1) whether the Government may agree with the Board that no amendment of the Land Acquisition Act is necessary, or

(2) whether it would be considered necessary to undertake legislation for expediting L.A. proceedings as recommended by the Retrenchment and the Reorganisation Committee.

I am strongly of the view that no further legislation except what is now actually on the annual is necessary.

Sd. x x x x
15-8-1948

MINUTES OF THE HONOURABLE MINISTERS:

Revenue Department

TO U.S.

Please see the orders in circulation above.

The papers may now be recorded after perusal by Public Works Department, Local Administration and Finance.

Public WorksDepartment (S.I.)

This Department last saw the file at pp.23-24 ante. The further notes of L.A., Finance and Revenue at pp.24-27 ante, and the orders in circulation on p.27 ante may be perused and the file passed on to Local Administration Dept

Local Administration Department

(Previous notes of this Department on page 25 ante)

The further notes on pp.25-27 ante and the orders in circulation on page 27 ante may be perused and the file passed on to Finance Department.

Sd. x x x x .
29-10-1948.

Finance (A.A.) Department

(Previous note of Finance on pp.25-26 above)

The further note of Revenue and the orders in circulation on pp.26-27 above may be perused and the case returned to Revenue.

Revenue Department

TO U.S.

Please see the notes from 25 ante and the orders in circulation on p.27 ante.

2. According to the instructions issued in Finance, U.O.Note No.28696/48 Rc-1, dated 12-4-1948, no final orders on any recommendation of the Retrenchment and Reorganisation Committee should be issued without the question being considered by the Full Cabinet. In the present case, however, it has been decided in circulation to all Hon'ble Ministers concerned and Hon'ble Premier that the recommendations of the Retrenchment and Reorganisation Committee need not be proceeded with. In the circumstances, it does not seem necessary to place the matter before the full Cabinet. Finance may see.

Finance (A.A.) Dept.

(Previous note of Finance on page 28 above)

Please see the note of Revenue above.

Final orders on the recommendations of the Retrenchment and Reorganisation Committee should not be issued without the matter being referred to the Cabinet. In the circumstances stated above Revenue may take orders in circulation including Honourable Minister (Finance) and Hon'ble Premier whether a reference to the Cabinet may be waived.

Revenue Department.

TO U.S.

The file deals with the proposals of the Retrenchment and Reorganisation Committee for expediting land acquisition procedure. Please see the proposals of the Committee extracted at page 16 ante. The recommendations of the Committee were examined in consultation with the Board of Revenue. The Board was not in favour of the proposals of the Committee. This Department agreed with the Board that no amendment of the L.A. Act was necessary on the lines suggested by the Retrenchment and Reorganisation Committee. P.W.D. and L.A. considered that legislation should be undertaken. Finance agreed with this Department. It was decided in circulation to H.M.(L.R), H.M.(P.W.)., H.M.(L.A.)., H.M.(Fin). and H.Pr., that legislation need not be undertaken for expediting L.A. Proceedings as recommended by the RR Committee.

2. According to the instructions issued in Finance U.O. note No.28696/48 Re-1, dated 12-4-1948, no final orders on any recommendations of the R.R. Committee should be issued with the question being considered by the full Cabinet. In the present case, however, the decision was taken after circulation to all H.Ms. concerned and H.Pr. The file was sent to Finance for advice whether in the circumstances it was necessary to place the matter before the Full Cabinet. Finance state that orders may be taken in Circulation including H.M.(Fin) and ~~Rx~~Honourable Pr. whether the reference to the Cabinet may be waived. For ordes whether this Department may request that a reference to the Cabinet may be waived in this case as all H.Ms. concerned and H.Pr. have seen the file.

'X' is the point for orders.

Sd. x x x
26-11-1948.

MINUTES OF THE HON'BLE MINISTERS:

Revenue Department

TO U.S.

Please see the notes and the orders in circulation on p.30 ante.

2. The papers may now be recorded.

G.O.Ms.No.523, dt 4-3-1949
Abs: Land Acquisition - Delays in Procedure - Recommendations of the R.R. Committee Papers - Recorded.

3. Finance may see. The orders in circulation on p.30 ante

Finance (A.A.) Department

(Previous note of Finance on p.29 above)

The further note of Revenue, the orders in circulation on page 30 above and the draft order above may be perused and the case returned to Revenue.

Sd. x x x x
26-2-1949.

Revenue Department

The papers may now be closed.

Sd. x x x x
1-3-1949.

/True Copy/

OFFICE ASSISTANT,
Madras Record Office,
Madras.

24/11/83 24.11